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RIGHTS OF THE CHILD

Question of a draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, as well as the basic measures needed for their prevention and eradication

Report of the working group

Chairman-Rapporteur: Mr. Iván Mora Godoy (Cuba)

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Introduction

1. The Commission on Human Rights, in paragraph 17 of its resolution 1994/90, entitled "Need to adopt effective international measures for the prevention and eradication of the sale of children, child prostitution and child pornography", decided to establish an open-ended inter-sessional working group of the Commission responsible for elaborating, as a matter of priority and in close collaboration with the Special Rapporteur on the sale of children, child prostitution and child pornography and the Committee on the Rights of the Child, guidelines for a possible draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, as well as the basic measures needed for their prevention and eradication.

2. The Economic and Social Council, in its resolution 1994/9, authorized the establishment of an open-ended working group which would meet for two weeks before the fifty-first session of the Commission on Human Rights.

I. ORGANIZATION OF THE SESSION

A. Opening and duration of the session

3. The session of the working group was opened by the representative of the Assistant Secretary-General for Human Rights, who made a statement. During the session the working group held 17 meetings from 14 to 25 November 1994 and on 8 February 1995.

B. Election of the Chairman-Rapporteur

4. At its 1st meeting, on 31 October 1994, the working group elected Mr. Iván Mora Godoy (Cuba) Chairman-Rapporteur.

C. Participation

5. The representatives of the following States members of the Commission at its fiftieth session attended the meetings of the working group, which were open to all members of the Commission: Angola, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, China, Colombia, Costa Rica, Cuba, Ecuador, Finland, France, Germany, Guatemala, India, Iran (Islamic Republic of), Italy, Japan, Mexico, Netherlands, Nigeria, Pakistan, Peru, Poland, Republic of Korea, Russian Federation, Sri Lanka, Syrian Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay and Venezuela.

6. The following States, non-members of the Commission, were represented by observers: Algeria, Argentina, Egypt, El Salvador, Ethiopia, Greece, Honduras, Iraq, Ireland, Israel, Morocco, New Zealand, Philippines, Romania, Senegal, Slovakia, South Africa, Spain, Sudan, Turkey and Zambia.

7. The following non-member States of the United Nations were also represented by observers: Switzerland and Holy See.

8. The following United Nations bodies/specialized agencies were represented by observers: United Nations Children's Fund, United Nations High Commissioner for Refugees and the United Nations Educational, Scientific and Cultural Organization.

9. The following non-governmental organizations in consultative status with the Economic and Social Council were represented by observers at the meetings: American Association of Jurists, Defence for Children International, International Abolitionist Federation, International Association of Democratic Lawyers, International Catholic Child Bureau, International Federation Terre des Hommes, International Federation of University Women and International Federation of Women in Legal Careers.

D. Documentation and organization of work

10. The working group had before it the following documents:

E/CN.4/1994/WG.14/1	Provisional agenda
E/CN.4/1994/WG.14/2 and Add.1-3	Comments on the guidelines for a possible draft optional protocol: report of the Secretary-General prepared pursuant to paragraph 18 of Commission resolution 1994/90
E/CN.4/1994/45/Add.1	Report of the second International Workshop on National Institutions for the Promotion and Protection of Human Rights (Tunis, 13-17 December 1993) (containing a draft optional protocol to the Convention on the Rights of the Child concerning the elimination of sexual exploitation and trafficking in children prepared by the Human Rights and Equal Opportunity Commission of Australia)
E/CN.4/1994/84	Report on the sale of children, child prostitution and child pornography, submitted by Mr. Vitit Muntarbhorn, Special Rapporteur, pursuant to Commission resolution 1993/82
E/CN.4/1993/31 and Add.1	Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography: report of the Working Group on Contemporary Forms of Slavery pursuant to paragraph 6 of Sub-Commission resolution 1992/2

11. The working group had also before it the text of the Convention on the Rights of the Child (General Assembly resolution 44/25, annex) and the text of the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography (Commission on Human Rights resolution 1992/74, annex).

12. The working group adopted its agenda, as contained in document E/CN.4/1994/WG.14/1, at its 1st meeting, on 14 November 1994.

II. GENERAL DISCUSSION

13. At its 2nd and 3rd meetings, on 15 and 16 November 1994, the working group, at the invitation of the Chairman-Rapporteur, held a general discussion on various questions relating to its mandate and to the problem of sexual exploitation of children. Many of those questions were subsequently discussed again by the working group in connection with its consideration of particular proposals relating to the guidelines for a possible draft optional protocol and to other basic measures needed for the prevention and eradication of the sale of children, child prostitution and child pornography.

14. All speakers condemned various forms of exploitation of children, in particular the sale of children, child prostitution and child pornography, and emphasized the great importance which their respective Governments or organizations attached to combating, both at national and international levels, those abhorrent practices.

15. In addressing the issue of exploitation of children, many participants referred to the existing United Nations standards and machinery in this area, in particular to the Convention on the Rights of the Child and to the monitoring functions of the Committee on the Rights of the Child, to the activities of the Working Group on Contemporary Forms of Slavery, as well as to the appointment of a Special Rapporteur on the sale of children and the adoption by the Commission on Human Rights of the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography.

16. While all participants agreed that the sale of children, child prostitution and child pornography was a serious problem which called for urgent and concerted international action, various views were expressed with regard to the means that should be employed to address that problem. It was felt by some delegations that the Convention on the Rights of the Child had already provided for the necessary legal framework to protect child victims of trafficking, prostitution and pornography, and that urgent action was needed above all to implement relevant provisions of the Convention. It was also stated that the recommendations of the Special Rapporteur were crucial and constituted a good basis for further action, as they complemented the Programme of Action and the work of the Committee on the Rights of the Child. Several delegations considered therefore that the objective of ensuring the protection of children from sexual exploitation would be better achieved by implementing and enforcing existing international standards and norms rather than by the creation of a new legal instrument.

17. Attention of the working group was drawn to the reservations on this issue expressed recently by the Committee on the Rights of the Child and some non-governmental organizations. It was also emphasized that duplication of efforts and proliferation of international instruments should be avoided.

18. It was stated that there had been no apparent shortcomings either in the Convention on the Rights of the Child and in the mechanism to implement it, or in the Programme of Action and the mandate of the Special Rapporteur that would be overcome by an optional protocol. Concern was expressed that in the

present time of scarce resources, the elaboration of another international instrument might drain resources from existing efforts, ultimately with negative results. It was also pointed out that no urgent action could be taken through an optional protocol, since it would take at least several years for it to become effective.

19. According to another view, because the needs of the child were so important and owing to the urgency of the matter, it would be most appropriate to examine, as a matter of priority, the possibility of drafting a new international legal document which would operate in tandem with the existing ones. It was felt that such an international document would seek to impose additional obligations on States and reinforce the criminalization of the sale of children, child prostitution and child pornography. It was noted in this connection that the scope of the Convention on the Rights of the Child was too broad while other existing international human rights instruments did not focus on the protection of children from sexual exploitation.

20. An opinion was expressed that while it was squarely within the mandate of the working group to address the issue of whether there existed a need for an optional protocol, the group, however, would be doing the Commission a disservice if, in its report, it failed to make known all the views expressed regarding the timeliness, usefulness and, indeed, the need for such a protocol.

21. Reference was often made to the double mandate of the working group which had to establish guidelines for a possible draft optional protocol on the sale of children, child prostitution and child pornography and elaborate basic measures needed for their prevention and eradication. It was emphasized by many delegations that both aspects of the working group's mandate should be given equal attention and that the guidelines should address only those three types of exploitation of children which were listed in Commission resolution 1994/90, namely the sale of children, child prostitution and child pornography.

22. In the view of other delegations, such guidelines should also include the questions of adoption for commercial purposes, exploitation of child labour, organ transplantation and other forms of sale and exploitation of children.

23. It was stated that in its deliberations, the working group should bear in mind that its mandate was not to produce a draft optional protocol but rather to propose guidelines for the possible use of those who might be entrusted with the drafting of a protocol at a later stage. It was stressed that a thorough assessment of existing standards and mechanisms was needed before recommending any further action.

24. Some delegations expressed the view that the possibilities offered by existing instruments, institutions and procedures in the area of protection of the rights of the child have not yet been fully utilized. A careful review of those standards and procedures was therefore necessary in order to determine what new values, if any, could be added to them through a new instrument.

It was noted in this connection that provisions of a possible optional protocol should complement the existing standards, and before elaborating such a new document, there should be no doubt that it could genuinely add something substantive to those instruments which were already in force. Reference was often made to General Assembly resolution 41/120 in which the Assembly stressed, inter alia, that any new legal instrument must be clearly complementary to existing norms or instruments. It was felt that there was an obvious need for some kind of procedural or methodological guidelines for a possible draft optional protocol.

25. A number of delegations were convinced that the working group should, as a first step, stress the urgent and continued need, on the national and international levels, to implement and monitor more effectively already existing legal instruments relating to the sale of children, child prostitution and child pornography, as well as other pertinent instruments, recommendations and mechanisms.

26. Several delegations emphasized that poverty and lack of economic development, particularly in the third world countries, were the primary causes of the exploitation of children. Unless poverty as a dominant factor was eliminated and at least the basic needs of people in those societies met, the eradication of sexual and other forms of exploitation of children could not be achieved. It was therefore felt that it was necessary to mobilize all resources, through mutual cooperation, to work towards the eradication of poverty, hunger and underdevelopment.

27. Reference was made to the Convention on the Rights of the Child which recognized the importance of international cooperation for improving the living conditions of children in every country, in particular in the developing countries, and to some of the provisions contained in the reports of the Special Rapporteur on the sale of children, child prostitution and child pornography which related to the issue of poverty in connection with the sexual exploitation of children.

28. The attention of the working group was drawn to the huge demand market which existed for the sale of children, child prostitution and child pornography. It was stated that the increase of these practices was the result of the fading of moral values in certain societies, and that it was therefore important to emphasize moral and religious values at the national and international levels in the context of the guidelines relating to education and information.

29. It was recalled by some delegations that the Commission on Human Rights in its resolution 1994/90 mandated the working group to work "in close collaboration with the Special Rapporteur on the sale of children, child prostitution and child pornography and with the Committee on the Rights of the Child". In that regard, some participants expressed their regret at the absence of both the Special Rapporteur and a representative of the Committee on the Rights of the Child.

III. PROPOSALS RELATING TO THE GUIDELINES FOR A POSSIBLE DRAFT OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

30. With regard to the guidelines for a possible optional protocol to the Convention on the Rights of the Child on sale of children, child prostitution and child pornography, the working group had before it the following three proposals:

(a) Draft optional protocol prepared by the Human Rights and Equal Opportunity Commission of Australia contained in the report of the second International Workshop on National Institutions for the Promotion and Protection of Human Rights (E/CN.4/1994/45/Add.1);

(b) Proposal submitted on 14 November 1994 by France (E/CN.4/1994/WG.14/CRP.1), reading as follows:

"DRAFT OPTIONAL PROTOCOL ON MEASURES TO COMBAT THE SALE OF CHILDREN, CHILD PROSTITUTION AND PORNOGRAPHY INVOLVING CHILDREN

"The States parties to the present Protocol,

"Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that children are entitled to special care and assistance (art. 25) and that the elimination of sexual exploitation and ill-treatment of children, as also of trafficking in children, is essential to the promotion and progressive implementation of human rights,

"Considering that the sexual exploitation of children through prostitution, pornography and trafficking has assumed new and alarming proportions at both national and international levels,

"Convinced that the elimination of sexual exploitation and ill-treatment of children, as also of trafficking in children, is essential for the promotion and progressive implementation of human rights,

"Considering that, in the Convention on the Rights of the Child, States parties have committed themselves to undertaking all appropriate legislative, administrative and other measures to ensure the effective implementation of the rights recognized in that Convention,

"Noting, in particular, the specific obligations undertaken by States parties to protect children from all forms of abuse, including sexual exploitation, and particularly, but not exclusively, the obligations set out in articles 11, 19, 32, 34, 35, 36, 39 and 42 of the Convention on the Rights of the Child,

"Convinced that it is in the interest of States parties to harmonize, as far as possible, their national legislation on sexual exploitation of children in order to improve the coordination and enhance the effectiveness of measures taken at the national and international levels,

"Have agreed as follows:

"Article 1

"For the purposes of the present additional Protocol, sexual exploitation shall be understood to comprise, in particular, child pornography and child prostitution.

"Article 2

"1. The States parties recognize that sexual exploitation of children and trafficking in children for sexual purposes must be severely punished.

"2. For the purposes of this Protocol, the responsibility for such acts lies with whoever commits them, in particular as principal, accessory or instigator, or knowingly profits from them in any way whatsoever.

"Article 3

"States parties agree to ensure in particular that their national legislation prescribes appropriate penalties for acts of sexual exploitation of children or trafficking in children committed within the territory of another State and involving their own nationals or any corporation or association operating within their territory.

"Article 4

"States parties undertake to cooperate by all appropriate means, in particular within the framework of bilateral and multilateral agreements, for the purpose of prevention, detection, prosecution and punishment of acts of sexual exploitation of or trafficking in children, including:

"(a) The cooperation of police forces in tracing and apprehending offenders and in the investigation of such acts, and strengthening of the surveillance exercised by the immigration authorities and frontier police to verify that travel by children outside their own countries is not connected with sexual exploitation or with trafficking in children;

"(b) Judicial cooperation including in particular mutual recognition and exchange of evidence;

"(c) Exchange of information between States, in particular through Interpol and through non-governmental organizations concerned with child welfare, in order to identify and prosecute those engaging in sexual exploitation.

"Article 5

"Member States undertake to provide for:

"1. The possibility of seizure and confiscation of proceeds from the commission of offences relating to trafficking in and sexual exploitation of children,

"2. Compensation to child victims of sexual exploitation, under the appropriate provisions.

"Article 6

"Member States recognize that assistance to and rehabilitation of child victims of sexual exploitation and trafficking, and elimination of the conditions conducive to such acts, should be a priority in their social development programmes and in their development assistance and cooperation programmes.

"Article 7

"1. Each State party shall promote awareness of the effects of sexual exploitation and see to the strengthening of measures to prevent such exploitation,

"(a) By making appropriate documentation concerning human rights and sexual exploitation of children available to parents, persons having the guardianship of minors, concerned groups and associations, and the general public;

"(b) By including in primary and secondary school curricula information on the risks that minors may run in regard to sexual exploitation and abuse and on how they can defend themselves;

"(c) By encouraging and strengthening programmes aimed at heightening the awareness and improving the training of those who have functions involving support for and protection of children in the fields of education, health, social welfare and the justice system, in order to enable them to identify cases of sexual exploitation and take appropriate measures;

"(d) By informing the public of the penal policy put into effect, the number of prosecutions and the sentences passed in cases involving the sexual exploitation of children, while ensuring the anonymity of the victims, and by publicizing the outcome of the proceedings instituted.

"Article 8

"The provisions of the present Protocol shall apply as additional provisions of the Convention.

"Article 9

"States parties to the present Protocol shall include in the reports they submit to the Committee on the Rights of the Child, in accordance with article 44 of the Convention, information on the measures they have adopted to give effect to the present Protocol.

"Article 10

"1. The present Protocol is open for signature by any State which has signed the Convention.

"2. The present Protocol is subject to ratification by any State which has ratified the Convention or acceded to it. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

"3. The present Protocol shall be open to accession by any State which has ratified the Convention or acceded to it.

"4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

"5. The Secretary-General of the United Nations shall inform all States that have signed the present Protocol or accede to it of the deposit of each instrument of ratification or accession.

"Article 11

"1. The present Protocol shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the tenth instrument of ratification or accession.

"2. For each State ratifying the present Protocol or acceding to it after the deposit of the tenth instrument of ratification or accession, the Protocol shall enter into force three months after the date of the deposit of their own instrument of ratification or accession.

"Article 12

"The provisions of the present Protocol shall extend to all parts of federal States without any limitations or exceptions.

"Article 13

"The Secretary-General of the United Nations shall inform all States referred to in article 46 of the Convention of the following particulars:

"(a) Signatures, ratifications and accessions under article 8* of the present Protocol;

"(b) The date of the entry into force of the present Protocol pursuant to article 9**.

"Article 14

"1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

"2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States referred to in article 46 of the Convention."

(c) Suggested guidelines for a possible draft optional protocol submitted at the 1st meeting, on 14 November 1994, by the Chairman-Rapporteur of the working group (E/CN.4/1994/WG.14/CRP.2), reading as follows:

"Suggested guidelines for a possible draft protocol on the sale of children, child prostitution and child pornography

- Definition as an offence of practices relating to the sale of children and their utilization in pornography and prostitution.

- Regarding trafficking in and sale of children, attention must be paid to questions concerning abduction and sale of children or their illegal separation from their parents for any purpose: sexual exploitation, work of any kind, adoption, criminal activities, and in particular trading in and transplantation of organs.

- Regarding the utilization of children in child prostitution and pornography, those aspects which are interrelated must be considered: incest and sexual abuse within the family or on the part of the child's employers, sex tourism, in the countries both of origin and of destination, and trading therein, the production, distribution and possession of pornographic material in which children are used, and the utilization of new technologies to incite people to have sexual intercourse with children against payment.

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* Translator's note: This should presumably now be article 10.

** Translator's note: This should presumably now be article 11.

"Preventive care, protection, rehabilitation and reintegration of the child

'It is essential that, to cope with such practices, States adopt preventive measures involving provision to meet the basic needs not only of the child but also of the family, accompanied by appropriate aid to development and a process of redistribution to remedy social deprivations and abuses. Also essential are the identification, arrest and conviction of customers, consumers, procurers, intermediaries and accomplices and provision for penalties commensurate with the gravity of such offences.

"Important, too, are the enactment and reform of laws and regulations directed towards the protection of the rights of the child at the national and international level, as a means for identifying the guilty and ensuring application of the laws.

"Advisory, medical, occupational, social and development services must be provided and rehabilitation and reintegration programmes with an interdisciplinary approach established to help the child victims of such practices.

"Information, education and participation

"International, regional and national information campaigns are needed to alert public opinion at all levels to the grave problems of trafficking in and sale of children and their utilization in child prostitution and pornography.

"The basic objective towards which educational efforts should be directed is universal education for all - children, parents, guardians and special groups such as travel agencies and tourists, among others - taking into account the universally recognized principles of ethics, in particular the right of the family to its integrity, the fundamental right of every child to the integrity of his own body and the protection of his identity and his rights as laid down in the Convention.

"As regards participation, it must be accepted that there should be more involvement of the general public in disseminating the notion of protection of the child as an ethical principle common to all cultures and in the implementation and evaluation of programmes established for such purposes.

"International coordination and cooperation

"One fundamental requirement is for bilateral and multilateral cooperation between bodies responsible for applying the law and putting to use the experience acquired in other spheres, as for example in combating drug trafficking, with a view to adoption of the measures needed to control and bring to an end the growing internationalization of the sale of children, child prostitution and the utilization of children in pornography.

"In this regard stress must be laid on the variety of causes that contribute to the development and persistence of these special circumstances, in particular poverty, unemployment, hunger, natural disasters, intolerance, exploitation of child labour and armed conflicts, with their detrimental effects regarding the rights of the child and the maintenance of family unity, necessitating an increase in international cooperation to eradicate the underlying causes of these evils.

"There must also be recognition of the existence of a market that nurtures the increase in these criminal activities against children, and of the need to step up international cooperation in order to eliminate that market on the basis of the principle of collective responsibility.

"The protocol will need to determine what mechanisms there must be within the United Nations system to coordinate its activities in order to promote the application of the protocol, independently of the directing role that the Committee on Human Rights has to play in this sphere."

31. At the 3rd meeting, on 16 November 1994, the representative of France introduced a revised proposal, replacing its original proposal contained in document E/CN.4/1994/WG.14/CRP.1 and reproduced above.

32. At the same meeting, the Chairman proposed that the working group use the revised proposal by France as the guiding document for its work.

33. At the 4th meeting, on 16 November 1994, the working group agreed to the proposal by the Chairman to use the revised proposal by France as its guiding document in order to elaborate guidelines.

34. The revised proposal by France read as follows:

"GUIDING DOCUMENT

"The working group,

"Convinced that it is in the interest of States parties to harmonize, as far as possible, their national legislation on sexual exploitation of children in order to improve the coordination and enhance the effectiveness of measures taken at the national and international levels,

"Has agreed as follows:

"DEFINITIONS

"1. A possible optional protocol should apply to sexual exploitation and trafficking in children. Sexual exploitation must be understood as child pornography and child prostitution.

"IMPLEMENTATION OF EXISTING INSTRUMENTS (MECHANISMS)

"2. State parties stress the need to implement existing instruments for the prevention and suppression of child pornography, child prostitution

and trafficking in children, in particular the Convention on the Rights of the Child, the Programme of Action for prevention of sale of children, child prostitution and pornography and the recommendations of the Special Rapporteur on the sale of children, child prostitution and child pornography.

"PENALIZATION

"3. State parties have to adopt incriminations to allow the severe punishment to suppress child pornography, child prostitution and trafficking in children.

"4. State parties agree if their national legislation permits it to ensure in particular that their national legislation prescribes appropriate penalties for acts of sexual exploitation of children or trafficking in children committed within the territory of another State and involving their own nationals or, if possible, any corporation or association operating within their territory.

"INTERNATIONAL COOPERATION AND COORDINATION

"5. States parties undertake to cooperate by all appropriate means, in particular within the framework of bilateral and multilateral agreements, for the purpose of prevention, detection, prosecution and punishment of acts of sexual exploitation of or trafficking in children, including:

"(a) The cooperation of police forces in tracing and apprehending offenders and in the investigation of such acts, and strengthening of the surveillance exercised by the immigration authorities and frontier police to verify that travel by children outside their own countries is not connected with sexual exploitation or with trafficking in children;

"(b) Judicial cooperation including in particular cooperation in exchange of evidence;

"(c) Exchange of information between States, in particular through Interpol and through non-governmental organizations concerned with child welfare, in order to identify and prosecute those engaging in sexual exploitation.

"COMPENSATION OF VICTIMS

"6. Member States undertake to provide for:

"1. The possibility of seizure and confiscation of proceeds from the commission of offences relating to trafficking in and sexual exploitation of children;

"2. Compensation to child victims of sexual exploitation, under the appropriate provisions.

"ASSISTANCE AND REHABILITATION

"7. Member States recognize that assistance to and rehabilitation of child victims of sexual exploitation and trafficking, and elimination of the conditions conducive to such acts, should be a priority in their social development programmes and in their development assistance and cooperation programmes.

"INFORMATION AND EDUCATION

"8. Each State party shall promote awareness of the effects of sexual exploitation and see to the strengthening of measures to prevent such exploitation:

"(a) By making appropriate documentation concerning human rights and sexual exploitation of children available to parents, persons having guardianship of minors, concerned groups and associations, and the general public;

"(b) By including in primary and secondary school curricula information on the risks that minors may run in regard to sexual exploitation and abuse and on how they can defend themselves;

"(c) By encouraging and strengthening programmes aimed at heightening the awareness and improving the training of those who have functions involving support for and protection of children in the fields of education, health, social welfare and the justice system, in order to enable them to identify cases of sexual exploitation and take appropriate measures;

"(d) By informing the public of the penal policy put into effect, the number of prosecutions and the sentences passed in cases involving the sexual exploitation of children, while ensuring the anonymity of the victims, and by publicizing the outcome of the proceedings instituted."

35. Proposals made under each chapter of this guiding document and decisions taken thereon are described in the following paragraphs.

A. Introductory part

36. At the 5th meeting, on 17 November 1994, the representative of Australia proposed to amend the introductory paragraph by deleting the word "parties" after the word "States".

37. The representative of Cuba proposed to replace the words "sexual exploitation of children" by the words "sale of children, child prostitution and child pornography".

38. The representative of China proposed to add at the beginning of the paragraph the words "A possible protocol should".

39. The representative of Cuba proposed a new text for this introductory paragraph which read as follows:

> "Convinced that it is in the best interest of the child that States parties take all necessary measures to prevent and eradicate the practices of sale of children, child prostitution and child pornography, as well as necessary measures for the rehabilitation of victims."

40. The representative of France, supported by the representative of Australia and the observer for El Salvador, proposed to insert after the word "measures", in the proposal by Cuba, the following words "both at the national and international levels". The amended text read as follows:

> "Convinced that it is in the best interest of the child to take both at the national and international levels all necessary measures to prevent and eradicate the practices of sale of children, child prostitution and child pornography, as well as necessary measures for the rehabilitation of victims."

41. At the 6th meeting, on 17 November 1994, the observer for El Salvador submitted a compromise text which read as follows:

> '"In order to promote the best interest of the child, a possible optional protocol should pay particular attention to the need to take all necessary measures, at the national and international levels, to prevent and eradicate the practices of sale of children, child prostitution and child pornography, as well as necessary measures for the rehabilitation of victims."

42. At the same meeting, this paragraph entitled "Introduction" was adopted by the working group ad referendum.

B. Definitions

43. At the 5th meeting, on 17 November 1994, the representative of Nigeria proposed a new wording for the paragraphs dealing with definitions. His proposal read as follows:

> "For the purpose of this proposed Protocol, 'a child' means every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier.
>
> "'The sale of children' means the transfer of a child from one party (including biological parents, guardians and institutions) to another, for whatever purpose, in exchange for financial or other reward or compensation. This is limited only to adoption for commercial purposes, exploitation of child labour, organ transplantation and other forms of sale. These crimes include commission as principal or accessory, conspiracy or incitement to commit such offences, activity preparatory to commission of such offence and knowingly facilitating or profiting from the commission of such offences".

44. At the 8th meeting, on 18 November 1994, the representative of Nigeria revised his previous proposal as follows:

"For the purpose of a proposed optional protocol, 'sale of children' means the transfer of a child from one party (including biological parents, guardians and institutions) to another, in exchange for financial or other rewards or compensation primarily for the purpose of sexual exploitation, prostitution and pornography."

45. At the same meeting, the representative of the Syrian Arab Republic proposed a text which read as follows:

"The term 'sale of children' means any attempt to impose an authority on the child other than that of his/her legitimate parents or tutors or legal guardians, for whatever reason, can only be counter-productive".

46. The representative of Cuba proposed the following text:

"1. A possible optional protocol should apply to the sale of children, child prostitution and child pornography.

"2. For the purposes of a possible optional protocol, 'sale of children' means the transport of a child from one party, including biological parents, guardians and institutions to another in exchange for financial or other reward or compensation, for whatever purpose such as sexual exploitation, work of any kind, adoption for commercial purposes, criminal activities, and in particular trading in and transplantation of organs".

47. At the 9th meeting, on 21 November 1994, the representative of Nigeria submitted a compromise text which read as follows:

"1. For the purpose of this Protocol, 'a child' means every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier.

"2. A possible optional protocol should apply to the sale of children, child prostitution and child pornography.

"3. For the purpose of a possible optional protocol, the term 'sale of children' means the [transfer] [sell and purchase] of a child from one party, including biological parents, guardians and institutions to another in exchange for financial or other rewards or compensation [primarily] for [the] [whatever] purpose [such as] [of] sexual exploitation [of any kind], [prostitution and pornography.], [adoption for commercial purposes, criminal activities, and in particular trading in and transplantation of organs].

"4. [The term 'child prostitution' means the sexual exploitation of a child for remuneration in cash or in kind, usually but not always organized by an intermediary such as a parent, family member, procurer, teacher, etc.]

"5. [The term 'child pornography' means the visual or audio depiction of a child for the sexual gratification of the user, and involves the production, distribution and/or use of such material.]"

48. The observer for Ireland proposed to insert at the end of paragraph 2 of the text submitted by Nigeria, after the words "child pornography" the following sentence "inter alia, as referred to in articles 34 and 35 of the Convention on the Rights of the Child".

49. The representative of Cuba suggested, in paragraph 3 of the Nigerian text, to delete the square brackets before and after the words "transfer" and "sell and purchase".

50. The representative of Mexico proposed to insert in paragraph 3 of the proposal by Nigeria, after the word "compensation" the words "for any purpose incompatible with those set out in the Convention on the Rights of the Child".

51. The representative of Austria proposed to insert, after paragraph 3 of the proposal by Nigeria the following text:

"A possible optional protocol should also consider the definition of the child, child prostitution and child pornography."

52. The representative of China proposed the following text:

"For the purposes of a possible optional protocol, the term 'sale of children' means the transfer of a child from one party to another in exchange for financial or other reward or compensation."

53. At the 11th meeting, on 22 November 1994, the representative of Nigeria submitted an updated version of the compromise text which read as follows:

"1. For the purpose of this Protocol, a child means every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier.

"2. A possible optional protocol should apply to the sale of children, child prostitution and child pornography.

"3. A possible optional protocol should consider the definitions of sale of children, child prostitution and child pornography. The definitions given by the Special Rapporteur on this issue as well as those of the delegations to the first session of the working group should be taken into account in the elaboration of the proposed optional protocol."

54. The representative of Germany suggested, in paragraph 1 of this compromise text, to insert after the words "the purpose of", the words "a possible optional", and to delete, before the word "protocol", the word "this".

55. At the same meeting, this text, entitled "Definitions", as amended by Germany, was approved by the working group ad referendum.

C. Implementation of relevant instruments

56. At the 5th meeting, on 17 November 1994, the representative of Chile proposed, in chapter entitled "Implementation of existing instruments", to replace the word "existing" by the word "relevant".

57. The observer for Poland proposed to add a new sentence which read as follows:

> "States shall support and encourage the activity of relevant international and non-governmental organizations and shall closely cooperate with them, with a view to better accomplish the purpose of the future Protocol."

58. The representative of Nigeria proposed the following text:

> "States stress the urgent and permanent need to implement and monitor effectively existing mechanisms for the prevention and suppression of sale of children, child prostitution and child pornography, in particular the Convention on the Right of the Child, the Programme of Action for the Prevention of sale of children, child prostitution and child pornography, Slavery Conventions, 1949 Convention on Traffic in Persons and Prostitution, ILO Conventions 29 and 105 and the recommendations of the Special Rapporteur on the sale of children, child prostitution and child pornography."

59. The representative of Belgium proposed to amend the original text by inserting after the words "stress the", the words "urgent and permanent need, on an international and national level", and after the words "to implement", the words "and monitor effectively".

60. At the 6th meeting, on 17 November 1994, the representative of the United States of America proposed a new text which read as follows:

> "A possible protocol should provide that States will:
>
> - stress the urgent and continuing need, on the national and international level, to implement and monitor effectively relevant legal instruments related to the sale of children, child prostitution and child pornography, including the Convention on the Rights of the Child and all other pertinent conventions;
>
> - give due regard to the implementation and monitoring of the provisions of the Programme of Action for the prevention of the sale of children and the recommendations of the Special Rapporteur on the sale of children, child prostitution and child pornography;
>
> - as appropriate, support and encourage the activities of relevant international and non-governmental organizations."

61. The representative of Cuba proposed to delete the last paragraph of the text proposed by the delegation of the United States of America.

62. The representative of China proposed the following text:

"A possible optional protocol should:

- reiterate the importance for States to combat and eradicate the sale of children, child pornography and child prostitution through their national legislation and domestic measures;

- stress the need on the international level to implement effectively international instruments related to the sale of children, child pornography and child prostitution;

- give due regard to the implementation of the provisions of the Programme of Action for the prevention of the sale of children."

63. At the 11th meeting, on 22 November 1994, the representative of the United States of America submitted a compromise text which read as follows:

"A possible protocol should provide that States will:

- emphasize the importance for States to combat and eradicate the sale of children, child pornography and child prostitution through effective national legislation and domestic measures;

- stress the continuing need for effective implementation on all levels of relevant international legal instruments related to the sale of children, child pornography and child prostitution, including the Convention on the Rights of the Child and all other pertinent conventions;

- give due regard to implementation of the provisions of the Programme of Action for the prevention of the sale of children and the other relevant decisions and recommendations of international bodies;

- as appropriate, encourage the activities of, and cooperation with, relevant international and non-governmental organizations, in line with their respective national legislation."

64. The representative of China suggested that in the second subparagraph of the compromise text the words "prostitution" and "pornography" should be inverted.

65. The representative of Mexico proposed to replace, in the first subparagraph, the word "combat" by the word "prevent".

66. At the same meeting, this text, entitled "Implementation of relevant instruments", as amended by China and Mexico, was approved by the working group ad referendum.

D. Penalization, compensation and protection of children

67. At the 5th meeting, on 17 November 1994, the representative of the United States of America proposed a text which read as follows:

"A possible protocol should provide that each State shall ensure that all acts constituting sale of children, child prostitution and child pornography are offences under its criminal law. Each State shall make sure that these offences are punishable by appropriate penalties which take into account their grave nature."

68. The representative of India proposed, in paragraph 3 of the original text of the guiding document, to replace the word "suppress" by the word "eliminate".

69. The representative of Mexico proposed, in paragraph 4 of the original text, to delete the words "in particular that their national legislation prescribes" and to replace the words "if possible" by the words "where appropriate".

70. At the 6th meeting, on 17 November 1994, the representative of France submitted a revised text which read as follows:

"States undertake to provide for appropriate penalties under criminal law in order to prevent practices involving the sale of children, child prostitution and child pornography, according to the seriousness of such acts.

"Natural persons and legal entities found guilty of the sale of children, child prostitution or child pornography must be punished in the country where the offence was committed or in the country in which they reside.

"In order to ensure effective prosecution of such offences, States shall adopt texts which allow for prosecution or extradition outside their territory.

"In all circumstances, the child victim must be protected and may not be subjected to any such prosecution."

71. At the 7th meeting, on 18 November 1994, the representative of Japan proposed to consider separately the subjects dealt with in the two paragraphs of this chapter. He proposed a text which read as follows:

"The guidelines for a possible optional protocol should reflect the views of criminal justice experts of governments and competent international organizations, including the United Nations Commission on Crime

Prevention and Criminal Justice concerning the necessity or appropriateness of possibly expanding the scope of seizure and confiscation of proceeds to the sale of children, child prostitution and child pornography."

72. At the 8th meeting, on 18 November 1994, the representative of Chile proposed a different text, which reads as follows:

"States should adopt measures in order to protect the safety and integrity of those persons and/or institutions involved in the prevention and/or protection and rehabilitation of child victims of these practices, from any act of threat or act of aggression from persons or organizations profiting from the sale of children, child pornography and child prostitution."

73. At the 10th meeting, on 21 November 1994, the representative of France submitted a new version of the text, which read as follows:

"States undertake to provide for appropriate penalties under criminal law in order to prevent practices involving the sale of children, child prostitution and child pornography, according to the seriousness of such acts.

"Natural persons and other legal entities involved in the sale of the child, child prostitution and child pornography must be punished in the country where the acts occurred or their effects are felt or by the country where they reside or are incorporated or of which they are nationals.

"The methods for ensuring this would also allow States to punish their own nationals or residents for offences committed outside their territories and/or to develop appropriate arrangements for extradition.

"States give due regard to the necessity or appropriateness of possibly expanding the scope of seizure and confiscation of proceeds of, and all equipment and other property used in the sale of children, child prostitution and child pornography.

"States should adopt measures in order to protect the safety and integrity of those persons and/or institutions involved in the prevention and/or protection and rehabilitation of child victims of these practices, from any threat or act of aggression from persons or organizations profiting from the sale of children, child pornography and child prostitution.

"In all circumstances, the child victim must be protected and must not be the object of any such prosecution."

74. The following amendments were proposed with respect to the text submitted by France.

75. The representative of Nigeria proposed to replace, in the first paragraph of this text, the words "such acts" by the words "such offences". He also proposed to move the paragraph dealing with compensation to the chapter entitled "Compensation of victims".

76. The representative of Chile proposed to insert, in the first paragraph, after the words "to prevent" the words "and punish".

77. The representative of Australia proposed to replace in the third paragraph of the text, the words "this would also allow States" by the words "this would require States".

78. The representative of the Russian Federation proposed to add a new paragraph reading as follows:

> "Methods should be developed to obtain evidence from the child without further traumatization, in accordance with the principle of the best interests of the child."

79. The observer for Switzerland proposed to replace the second paragraph of the proposal by the following text:

> "Any natural person involved in any capacity in the sale of children, child prostitution and child pornography must be punished in the country where the acts were committed or their effects are felt or by the country where the natural person resides or of which he is a national or where the legal entity on whose behalf he acted is incorporated.
>
> "If national law permits it, any legal entity involved in the activities mentioned above must be punished in the country where the acts were committed or their effects are felt or where the legal entity is incorporated."

80. The representative of Germany proposed to replace, in the second paragraph of the text, the sentence "The natural persons and other legal entities involved in the sale of the child, child prostitution and child pornography must be punished" by the sentence "It should be ensured that persons involved in the sale of children, child prostitution and child pornography can be punished" and to replace, in the third paragraph, the word "would also allow" by the words "may include the possibility for".

81. The observer for El Salvador proposed to replace in the first paragraph, the word "acts" by the word "offences" and to deal with the issue of compensation in that chapter. She proposed to insert at the end of the fourth paragraph, after the word "pornography", the words "for the possible compensation of child victims".

82. The representative of the Netherlands proposed to replace the word "punish" by the word "prosecute" in the entire text.

83. At the 12th meeting, on 22 November 1994, the representative of France submitted a revised text, which read as follows:

"1. States undertake to provide for appropriate penalties under criminal law in order to prevent and punish the sale of children, child prostitution and child pornography, according to the seriousness of such acts.

"2. Any natural person involved in any capacity in the sale of children, child prostitution and child pornography should be prosecuted in the country where the offences were committed or their effects are felt or by the country where the natural person resides or of which he is a national or where the legal entity on whose behalf he acted is incorporated. It should be understood that this provision would not apply to legal entities in respect of actions by persons over whom they have no control.

"Any legal entity able to be prosecuted involved in the activities mentioned above should be prosecuted in the country where the offences were committed or their effects are felt or where the legal entity is incorporated.

"This would imply that States to prosecute their own nationals [or residents] for offences committed outside their territories or to develop appropriate arrangements for extradition.

"3. States give due regard to the necessity or appropriateness of possibly expanding the scope of seizure and confiscation of proceeds of, and all equipment and other property used in the sale of children, child prostitution and child pornography.

"4. States should adopt measures in order to protect the safety and integrity of those persons and/or institutions involved in the prevention and/or protection and rehabilitation of child victims of these practices, from any threat or act of aggression from persons, [legal entities] or organizations profiting from the sale of children, child pornography and child prostitution.

"5. States:

- should ensure the protection, in all circumstances, of child victims of sale, prostitution and pornography so that they will not be subjected to any prosecution directly linked to the above-mentioned acts;

- should ensure that the interests of children at all stages of the judicial process are safeguarded;

- should prevent identification of children involved in any such judicial process and respect their right to privacy, in particular by ensuring the confidentiality of files;

- should establish for the benefit of these children the appropriate rules for hearings so as to ensure respect for their dignity, to minimize the traumatic effects and to enhance the weight to be given to their statements;

"6. Moreover, States should make appropriate provision in their national legislation for the compensation of child victims. It should be stressed, however, that it is the offender who in the first instance should compensate the victim."

84. The representative of Japan proposed to move paragraph 6 of the revised text to another chapter. He proposed to amend the first subparagraph of paragraph 2 which would read as follows:

"States give due regard to prosecute any natural person involved in any capacity in the sale of children, child prostitution and child pornography in the country where the offences were committed or their effects are felt or by the country where the natural person [resides or] of which he is a national or where the legal entity able to be prosecuted on whose behalf he acted is incorporated."

He also proposed to replace, in the third subparagraph of paragraph 2, the words "States to prosecute" by the words "States consider the possibility of prosecuting".

85. The representative of the Netherlands proposed that in the first subparagraph of paragraph 2, the words "resides or" be put into square brackets and that, in the second subparagraph of paragraph 2, after the word "States" the words "with due regard to the double criminality rule" be inserted and placed in square brackets. He also suggested that, in the third subparagraph of paragraph 2, the word "to" before the word "develop" be deleted.

86. The observer for Ireland proposed to delete, in paragraph 6, the word "appropriate".

87. The representative of the United States of America proposed to add, as headline for the text submitted by France, the following words: "A possible optional protocol should provide that". In paragraph 6, he proposed to replace the words "States shall ensure" by the words "States shall examine means to ensure".

88. The representative of China proposed to delete in the first subparagraph of paragraph 2, the last sentence and to replace in the second paragraph, the words "able to be prosecuted involved in the activities" by the words "that committed offences".

89. The representative of Mexico proposed to delete in the first subparagraph of paragraph 2, the word "natural" and the following sentence: "It should be understood that this provision would not apply to legal entities in respect of actions by persons over whom they have no control". He also proposed to delete the last subparagraph of paragraph 2.

90. The representative of Japan proposed to insert, at the beginning of paragraph 2, the words "States give due regard to prosecute"; to delete the words "should be prosecuted"; and to put a full stop after the words "he is a national".

91. The observer for Philippines proposed an alternative text which read as follows:

"A possible optional protocol should consider:

"(a) the provisions of national laws which relate to offenders and victims in the sale of children, child prostitution and child pornography;

"(b) the scope of seizure and confiscation of the proceeds of these crimes;

"(c) measures which shall protect the safety and integrity of victims of these crimes and their appropriate compensation and rehabilitation; and

"(d) the possibility of extradition measures being undertaken in the context of inter-country cooperation."

92. At the same meeting, the representative of France submitted a revised version of the compromise text which read as follows:

"PENALIZATION

"A possible optional protocol should provide:

"1. States undertake to provide for appropriate penalties under criminal law in order to prevent and punish the sale of children, child prostitution and child pornography, according to the seriousness of such acts.

"2. Any natural person involved in any capacity in the sale of children, child prostitution and child pornography should be prosecuted in the country where the offences were committed or their effects are felt or by the country [where the natural person resides or] of which he is a national or where the legal entity on whose behalf he acted is incorporated.

"Any legal entity able to be prosecuted involved in the activities mentioned above should be prosecuted in the country where the offences were committed or their effects are felt or where the legal entity is incorporated. It should be understood that this provision would not apply to legal entities in respect of actions by persons over whom they have no control.

"This would require consideration by States of measures to prosecute [with due regard to the double nationality rule] their own nationals [or residents] for offences committed outside their territories or develop appropriate arrangements for extradition.

"3. States give due regard to the necessity or appropriateness of possibly expanding the scope of seizure and confiscation of proceeds of, and all equipment and other property used in the sale of children, child prostitution and child pornography, belonging to any natural person or [legal entities] or organizations responsible for these offences.

"4. States should adopt measures in order to protect the safety and integrity of those persons and/or institutions involved in the prevention and/or protection and rehabilitation of child victims of these practices, from any threat or act of aggression from persons, [legal entities] or organizations profiting from the sale of children, child pornography and child prostitution.

"PROTECTION AND COMPENSATION OF CHILDREN

"5. States:

- should ensure the protection, in all circumstances, of child victims of sale, prostitution and pornography so that they will not be subjected to any prosecution directly linked to the above-mentioned acts;

- should ensure that the interests of children at all stages of the judicial process are safeguarded;

- should prevent the identification of children involved in any such judicial process and respect their right to privacy, in particular by ensuring the confidentiality of files;

- should establish for the benefit of these children the appropriate rules for hearings so as to ensure respect for their dignity, to minimize the traumatic effects and to enhance the weight to be given to their statements;

"6. Moreover, States should consider the possibility of adopting provisions within their national legislations that will allow child victims to be compensated and provide adequate means and assistance to such victims to exercise the right to compensation. It should be stressed that it is the offender who, in the first instance, should compensate the child victim."

93. The representative of Chile proposed to replace paragraph 6 of the revised text submitted by France by a paragraph which read as follows:

"An optional protocol should encourage States to adopt provisions within their national legislations that will allow child victims to be compensated and provide adequate means and assistance to such victims to exercise the right to compensation. It should be stressed that it is the offender who, in the first instance, should compensate the child victim."

94. The representative of France, upon the proposal by Chile for a new paragraph 6, revised the paragraph as follows:

"Moreover, States should consider the possibility of adopting provisions within their national legislation that will allow child victims to be compensated. It should be stressed that it is the offender who, in the first instance, should compensate the child victim."

95. The observer for Ireland proposed to replace, throughout the text, the word "penalization" by the word "prosecution". He also proposed to add at the beginning of paragraph 5, the words "States should ensure".

96. The representative of China proposed a new text concerning compensation which read as follows:

"A possible optional protocol should encourage States to give due regard to the compensation of child victims of sale, prostitution and pornography according to their national legislation."

97. At the 13th meeting, on 23 November 1994, the representative of France submitted an updated revision of the compromise text which read as follows:

"A possible optional protocol should provide:

"1. States undertake to provide for appropriate penalties under criminal law in order to prevent and punish the sale of children, child prostitution and child pornography, according to the seriousness of such acts.

"2. States should address the problem to ensure that such offenders can be prosecuted either in the country where the offence was committed or in the country where the perpetrators [reside or] are nationals or - if consistent with the legal system of a State - is incorporated [or where the child victim is a national]. This would require consideration by States of measures to prosecute [with due regard to the double criminality rule] their own nationals [or residents] for offences committed outside their territories or develop appropriate arrangements for extradition.

"3. States give due regard to the necessity or appropriateness of possibly expanding the scope of seizure and confiscation of proceeds of, and all equipment and other property used in the sale of children, child prostitution and child pornography, belonging to any natural person or [legal entities] or organizations responsible for these offences.

"4. States should consider the adoption of measures in order to protect the safety and integrity of those persons and/or institutions involved in the prevention and/or protection and rehabilitation of child victims of these practices, from any threat or act of aggression from persons, [legal entities] or organizations profiting from the sale of children, child pornography and child prostitution."

"PROTECTION AND COMPENSATION OF CHILDREN

"A possible optional protocol should provide:

"5. The States:

- should ensure the protection, in all circumstances, of child victims of sale, prostitution and pornography so that they will not be subjected to any prosecution directly linked to the above-mentioned acts;

- should ensure that the interests of children at all stages of the judicial process are safeguarded;

- should prevent the identification of children involved in any such judicial process and respect their right to privacy, in particular by ensuring the confidentiality of files;

- should establish for the benefit of these children the appropriate rules for hearings so as to ensure respect for their dignity, to minimize the traumatic effects and to enhance the weight to be given to their statements;

"6. Moreover, States should consider the possibility of adopting provisions within their national legislations that will allow child victims to be compensated and provide adequate means and assistance to such victims to exercise the right to compensation. It should be stressed that it is the offender who, in the first instance, should compensate the child victim."

98. The representative of Mexico suggested that, in paragraph 2, the words "is incorporated" be replaced by the words "are incorporated". He also proposed to delete the words "or - if consistent with the legal system of a State - is incorporated" and to add a new second sentence which read as follows: "These provisions shall also apply to other offenders where they are incorporated, if the legal system of that State permits it."

99. The representative of France revised paragraph 2, by replacing the words "if consistent with the legal system of a State - is incorporated" by the words "corporations or other legal persons can be prosecuted if consistent with the legal system of a State".

100. The observer for Bolivia suggested to delete, in paragraph 2, the square brackets around the words "or where the child victim is a national".

101. The representative of the Netherlands proposed to replace, in paragraph 2, the words "with due regard to the double criminality rule" by the words "subject to the double criminality rule". He also proposed to delete, in paragraphs 3 and 4, the square brackets in which the words "legal entities" were placed, and to add the words "subject to paragraph 2".

102. The representative of France proposed a compromise text for paragraph 2 which read as follows:

> "States should address the problem to ensure that such offenders can be prosecuted either in the country where the offence was committed or in the country where the perpetrators [reside or] are nationals [or where the child victim is a national]. A corporation or other legal person can be prosecuted, if consistent with the legal system of the State. This would require consideration by States of measures to prosecute [subject to the double criminality rule] their own nationals [or residents] for offences committed outside their territories or develop appropriate arrangements for extradition."

103. The observer for Egypt proposed that in paragraph 2 the sentence "if consistent with the legal system" be put in square brackets.

104. The Chairman suggested that the whole paragraph 2, as revised, be put in square brackets. The representatives of the United States of America, France and Mexico supported this proposal.

105. The observer for the Philippines requested that the text she had proposed be included, together with the French text, in the annex to the report of the working group. This proposal was supported by the representative of China.

106. At the 15th meeting, the 24 November 1994, the representative of France submitted another revised version of a possible compromise text, which read as follows:

> "IV. PENALIZATION, COMPENSATION AND PROTECTION OF CHILDREN
>
> "A possible optional protocol should provide:
>
> "1. States undertake to provide for appropriate penalties under criminal law in order to prevent and punish the sale of children, child prostitution and child pornography, according to the seriousness of such acts.
>
> "[2. States should address the problem to ensure that such offenders can be prosecuted either in the country where the offence was committed or in the country [where the perpetrators reside] or are nationals [or where the child victim is a national]. A corporation or other legal person can be prosecuted if consistent with the legal system of a State. This would require consideration by States of measures to prosecute [with due regard to the double criminality rule] their own nationals [or residents] for offences committed outside their territories or develop appropriate arrangements for extradition.]

"3. States give due regard to the necessity or appropriateness of possibly expanding the scope of seizure and confiscation of proceeds of, and all equipment and other property used in the sale of children, child prostitution and child pornography, belonging to any natural person or [legal entities] or organizations responsible for these offences.

"4. States should consider the adoption of measures in order to protect the safety and integrity of those persons and/or institutions involved in the prevention and/or protection and rehabilitation of child victims of these practices, from any threat or act of aggression from persons, [legal entities] or organizations profiting from the sale of children, child pornography and child prostitution.

"5. A possible optional protocol should encourage States to consider the possibility of adopting provisions within their national legislations that will allow child victims to be compensated and provide adequate means and assistance to such victims to exercise the right to compensation. It should be stressed that it is the offender who, in the first instance, should compensate the child victim.

"6. States:

- should ensure the protection, in all circumstances, of child victims of sale, prostitution and pornography so that they will not be subjected to any prosecution directly linked to the above-mentioned acts;

- should ensure that the interests of children at all stages of the judicial process are safeguarded;

- should prevent the identification of children involved in any such judicial process and respect their right to privacy, in particular by ensuring the confidentiality of files;

- should establish for the benefit of these children the appropriate rules for hearings so as to ensure respect for their dignity, to minimize the traumatic effects and to enhance the weight to be given to their statements."

107. At the same meeting, this text, entitled "Penalization, compensation and protection of children", was approved by the working group ad referendum.

E. International cooperation and coordination

108. At the 6th meeting, on 17 November 1994, the representative of the Islamic Republic of Iran proposed a new text in addition to the original chapter regarding international cooperation, as contained in the guiding document. The proposal read as follows:

"States parties also undertake to step up bilateral and multilateral cooperation and take such measures as deemed effective to eliminate the

consumer market that nurtures the increase in the sale of children, child prostitution and child pornography on the basis of the principle of collective responsibility.

"States parties undertake to provide greater assistance to needy families and children particularly in developing countries in order to lift them out of the rut of poverty and economic deprivation which drive children into various forms of exploitation.

"States parties shall promote and encourage international cooperation in the eradication of poverty, hunger and underdevelopment with a view to contributing to the elimination of sale of children, child prostitution and child pornography, and shall formulate and adopt a common strategy containing measures at national and international level aimed at ensuring greater social justice for all."

109. The representative of Cuba proposed to replace, in the original text, the words "sexual exploitation and trafficking" by the words "sale of children, child prostitution and child pornography". In subparagraph (c) of the original text, he proposed to replace "INTERPOL" by the words "in particular through pertinent or relevant international organizations".

110. The representative of the United States of America proposed to include in the chapeau of this chapter the following wording: "A possible optional protocol should include provisions regarding possible ...".

111. At the 8th meeting, on 18 November 1994, the representative of Australia submitted a possible compromise text which read as follows:

"1. A possible optional protocol should seek to strengthen international cooperation by all appropriate means, in particular within the framework of bilateral and multilateral agreements, for the purpose of prevention, detection, prosecution and punishment of acts of sale of children, child prostitution and child pornography. Consideration should be given to including in the Protocol measures for enhanced cooperation in the following areas:

"(a) The cooperation of police forces in tracing and apprehending offenders and in the investigation of such acts, and strengthening of the surveillance exercised by the immigration authorities and frontier police to verify that travel by children outside their own countries is not connected with sale of children, child prostitution and child pornography.

"(b) Judicial cooperation, including in particular cooperation in exchange of evidence.

"(c) Exchange of information between States in particular through pertinent international organizations and through non-governmental organizations concerned with child welfare, in order to identify and prosecute those engaging in sale of children, child prostitution and child pornography; and

"(d) In the case of children transported across borders for the purposes of sale, child prostitution or child pornography, the adoption of measures to ensure the immediate protection of such children, as well as expeditious procedures for repatriation where appropriate.

"Drafters of any such provisions in a possible Protocol might advantageously refer to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

"2. Consideration should also be given to including in the Protocol undertakings by States to provide greater assistance to needy families and children particularly in developing countries in order to lift them out of the rut of poverty and economic deprivation which drive children into various forms of exploitation.

"3. A possible optional protocol should also:

"(a) provide that States undertake to step up bilateral and multilateral cooperation and take such measures as are deemed effective to eliminate the consumer market that nurtures the increase in the sale of children, child prostitution and child pornography on the basis of the principle of collective responsibility; and

"(b) provide that States shall promote and encourage international cooperation in the eradication of poverty, hunger and underdevelopment with a view to contributing to the elimination of sale of children, child prostitution and child pornography, and shall formulate and adopt a common strategy containing measures at national and international level aimed at ensuring greater social justice for all."

112. The representative of Chile proposed a text which read as follows:

"States shall adopt measures to ensure the immediate protection of children victims of these practices, as well as expeditious procedures for repatriation when appropriate."

113. At the 10th meeting, the representative of Australia submitted a revised version of the compromise text which read as follows:

"1. A possible optional protocol should seek to strengthen intentional cooperation by all appropriate means, in particular within the framework of bilateral and multilateral agreements, for the purpose of prevention, detection, prosecution and punishment of acts of sale of children, child prostitution and child pornography. Consideration should be given to including in the Protocol measures for enhanced cooperation in the following areas:

"(a) The cooperation of police forces in tracing and apprehending offenders and in the investigation of such acts, and strengthening of the surveillance exercised by the immigration authorities and frontier police to verify that travel by children outside their own countries is not connected with the sale of children, child prostitution and child pornography;

"(b) Judicial cooperation, including in particular cooperation in exchange of evidence;

"(c) Exchange of information between States in particular through pertinent international organizations and through non-governmental organizations concerned with child welfare, in order to identify and prosecute those engaging in sale of children, child prostitution and child pornography; and

"(d) In the case of children, transport across borders for the purposes of sale, child prostitution or child pornography, the adoption of measures to ensure the immediate protection of such children, as well as expeditious procedures for repatriation where appropriate.

"Drafters of any such provisions in a possible Protocol might advantageously refer to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Physchotropic Substances.

"[2. Consideration should also be given to including in the Protocol undertakings by States to provide greater assistance to needy families and children in order to lift them out of the [rut] of poverty, economic deprivation and social disintegration which drive children into various forms of exploitation.]

"[3. A possible optional protocol should also:

"(a) provide that States undertake to step up bilateral and multilateral cooperation and take such measures as are deemed effective to eliminate the consumer market that nurtures the increase in the sale of children, child prostitution and child pornography on the basis of the principle of collective responsibility; and

"(b) provide that States shall promote and encourage international cooperation in the eradication of poverty, hunger and underdevelopment, particularly in developing countries, with a view to contributing to the elimination of sale of children, child prostitution and child pornography, and shall formulate and adopt a common strategy containing measures at national and international level aimed at ensuring greater social justice for all.]"

114. The representative of Chile proposed, in the second paragraph, to replace the word "greater" by the words "social and economic" and to move paragraph 2 to the chapter dealing with assistance and rehabilitation of victims.

115. The representative of the Netherlands proposed to delete the entire paragraph 3 or to place it in square brackets.

116. The representative of Nigeria proposed to amend the title of this chapter to read as follows: "International cooperation, coordination and assistance".

117. The representative of Austria, supported by France, proposed to move paragraph 2 to the chapter dealing with rehabilitation of victims. In subparagraph (a) of paragraph 3, the representative of Austria proposed to

delete the words "on the basis of the principle of collective responsibility". In subparagraph (b), he proposed to put a full stop after the words "child pornography".

118. The representative of Cuba proposed to delete the square brackets from paragraph 3.

119. The representative of the Syrian Arab Republic joined the delegations of the Islamic Republic of Iran, Egypt, Cuba, Nigeria, Pakistan, Ireland and Chile requesting to delete the square brackets from paragraphs 2 and 3.

120. At the 13th meeting, on 23 November 1994, the representative of Australia submitted another revised version of the compromise text which read as follows:

"1. A possible optional protocol should address sale of children, child prostitution and child pornography. To that end, it should seek to strengthen international cooperation by all appropriate means, in particular within the framework of bilateral and multilateral agreements, for the purpose of prevention, detection, prosecution and punishment of such acts. Consideration should be given to including in the Protocol measures for enhanced cooperation in the following areas:

"(a) The cooperation of police forces in tracing and apprehending offenders and in the investigation of such acts, and strengthening of the surveillance exercised by the immigration authorities and/or frontier police to verify that travel by children outside their own countries is not connected with the sale of children, child prostitution and child pornography;

"(b) Judicial cooperation, including in particular cooperation in exchange of evidence;

"(c) Exchange of information between States through relevant States organs and pertinent international organizations, while encouraging non-governmental organizations concerned with child welfare to provide relevant information to such organs and international organizations in order to identify and prosecute those engaging in sale of children, child prostitution and child pornography; and

"(d) In the case of children, transport across borders for the purposes of sale, child prostitution or child pornography, the adoption of measures to ensure the immediate protection of such children, as well expeditious procedures for repatriation where appropriate.

"Drafters of any such provisions in a possible Protocol might advantageously refer to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

"[2. A possible optional protocol should also:

"(a) provide that States undertake to set up bilateral and multilateral cooperation and take such measures as are deemed effective

to eliminate the consumer market that nurtures the increase in the sale of children, child prostitution and child pornography on the basis of the principle of collective responsibility; and

"(b) encourage States to promote and strengthen international cooperation in the eradication of poverty, hunger and underdevelopment, particularly in developing countries, with a view to contributing to the elimination of sale of children, child prostitution and child pornography, and shall formulate and adopt a common strategy containing measures at national and international level aimed at ensuring greater social justice for all.]

or

"[2. International cooperation should include technical assistance to support national programmes to eradicate poverty and the sexual exploitation of children caused by such impoverishment.]"

121. The observer for Ireland requested to delete alternative paragraph 2 as proposed by his delegation.

122. Cuba and a number of delegations favoured the deletion of square brackets from paragraph 2 while some other delegations preferred to retain the brackets.

123. At the 15th meeting, on 24 November 1994, the representative of Mexico proposed that, in paragraph 1, the sentence "Drafters of any such provisions in a possible Protocol might advantageously refer to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances" be moved and included into the body of the report of the working group. He proposed to replace the words "A possible optional protocol should also" by the words "A possible optional protocol may also include".

124. The representative of China proposed to replace, in subparagraph (a) of paragraph 2, the words "the principle of collective responsibility" by the words "concerted international efforts".

125. The representative of Chile proposed to adopt paragraph 2, as amended by China, without square brackets.

126. The Chairman proposed to adopt the text with paragraph 2 and the proposal by China in square brackets and to delete the sentence "Drafters of any such provisions in a possible Protocol might advantageously refer to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances".

127. At the same meeting, this text entitled "International cooperation and coordination" was approved by the working group ad referendum as proposed by the Chairman.

F. Assistance and rehabilitation

128. At the 6th meeting, on 17 November 1994, the observer for El Salvador proposed to replace the words "Member States undertake to provide for", as contained in the chapter entitled "Compensation of victims", of the original text of the guiding document, by the words "States shall undertake".

129. The representative of Cuba proposed to replace the words "sexual exploitation and trafficking" by the words "sale of children, child prostitution and child pornography".

130. The representative of Australia proposed that the paragraph reading "The possibility of seizure and confiscation of proceeds from the commission of offences relating to trafficking in and sexual exploitation of children" be moved to the chapter on penalization, and that the paragraph reading "Compensation to child victims of sexual exploitation, under the appropriate provisions" be moved to the chapter concerning assistance and rehabilitation.

131. The representative of the Russian Federation proposed to replace paragraph 2 of the chapter by the following new text:

> "States are encouraged to incorporate in their national legislation adequate measures for compensation to child victims of sexual exploitation, under the appropriate provisions."

132. At the 8th meeting, on 18 November 1994, the observer for Egypt submitted a compromise text entitled "Assistance, rehabilitation and compensation" which read as follows:

> "1. States are encouraged to incorporate into their national legislation adequate provisions for the compensation of child victims of sale, prostitution and pornography.
>
> "2. States shall take all possible measures for providing assistance to, and rehabilitation of victims of sale of children, child prostitution and child pornography.
>
> "3. International cooperation can play an important role in providing assistance and rehabilitation to child victims of sale, prostitution and pornography. All efforts to this end are encouraged [including the possibility of creating a voluntary fund]".

133. The representative of China proposed a new text for the chapter reading as follows:

> "A possible optional protocol should encourage States to give due regard to the compensation of child victims of sale, prostitution and pornography according to their national legislation."

134. The representative of China further suggested that the proposal of his delegation should be placed as paragraph 5 under the chapter on penalization.

135. At the 10th meeting, on 21 November 1994, the Chairman proposed to move paragraph 2 of the chapter dealing with international cooperation, as submitted at the same meeting by the representative of Australia, to this chapter.

136. The representative of France proposed to add at the end of paragraph 2: "child victims should be compensated in accordance with appropriate national legislation".

137. At the 13th meeting, on 23 November 1994, the observer for Egypt submitted a revised compromise text which read as follows:

> "1. States shall take all possible measures for providing assistance to and rehabilitation of victims of sale of children, child prostitution and child pornography.
>
> "2. International cooperation can play an important role in providing assistance and rehabilitation to child victims of sale, prostitution and pornography. All efforts to this end are encouraged.
>
> "3. [Consideration should also be given to including in the protocol undertakings by States to provide greater social and economic assistance to needy families and children in order to lift them out of the (rut) of poverty, economic deprivation and social disintegration which drive children into various forms of exploitation.]"

138. The representative of the United States of America proposed to add an introductory phrase reading as follows: "A possible optional protocol should provide that".

139. The representative of Japan suggested that the title of this chapter should be changed to "Assistance and rehabilitation".

140. The representative of Austria indicated his agreement to the deletion of square brackets in paragraph 3, if it were amended as follows: delete the words "in the protocol"; insert between the words "to" and "needy" the word "their" and delete the word "greater". The paragraph would then read as follows:

> "Consideration should also be given to including undertakings by States to provide social and economic assistance to their needy families and children in order to lift them out of the (rut) of poverty, economic deprivation and social disintegration which drive children into various forms of exploitation."

141. A number of delegations proposed the deletion of square brackets in paragraph 3, while other delegations insisted on their retention.

142. The Chairman proposed to adopt the text, as submitted by Egypt, with the language proposed by Japan and the United States of America.

143. At the same meeting, the text entitled "Assistance and rehabilitation" was approved by the working group ad referendum.

G. Information, education and participation

144. At the 7th meeting, on 18 November 1994, the representative of the Islamic Republic of Iran proposed the following text replacing original paragraph 8 of the text contained in the guiding document:

> "By promoting social, spiritual and moral values among all the sectors of the society in particular, parents, persons having the guardianship of minors as well as business and consumer circles."

145. The representative of Canada proposed to replace the words "by publicizing", in paragraph 8 (d) by the words "by making public".

146. The representative of Chile proposed the following text replacing subparagraph (d) of paragraph 8:

> "By informing the public of the penal policy put into effect, the number of prosecutions and the sentences passed in cases involving the sexual exploitation of children, and by making public the outcome of the proceedings instituted, while ensuring the anonymity of the victims, as well as the full respect of their rights, in particular their right to privacy."

147. The representative of India proposed to replace, in the text proposed by the Islamic Republic of Iran, the words "spiritual values" by the words "ethical values".

148. The observer for Morocco proposed the following text for subparagraph (a) of paragraph 8:

> "By preparing a campaign to increase awareness of the seriousness of and the dangers involved in selling children, child prostitution and child pornography. The campaign must be targeted at all those persons who care for children: parents, educators, teachers and all other relevant associations, as well as the public at large. It must focus on disseminating the rights of the child and denouncing and combating such forms of child exploitation."

149. The representative of Cuba proposed to insert, in the text proposed by the observer for Morocco, before the word "campaign", the words "international, regional and national" and also to insert, after the words "the public at large", the words "travel agencies and tourists". He proposed the following paragraph as chapeau of the present chapter:

> "A possible optional protocol shall promote awareness of the effects of sale of children, child prostitution and child pornography and to strengthen measures to prevent such practices at the international and national levels."

150. The representative of Austria proposed to amend the chapeau of original paragraph 8 by adding at the beginning of the paragraph the words "Based on universal ethical principles and in accordance with international norms for the protection of children". The entire paragraph would then read as follows:

"Based on universal ethical principles and in accordance with international norms for the protection of children, each State party shall promote awareness of the effects of sexual exploitation and see to the strengthening of measures to prevent such exploitation."

151. The representative of Austria also proposed to amend subparagraph (b) of paragraph 8 by inserting, after the words "by including" the words "in educational efforts", and by deleting the words "in primary and secondary school curricula".

152. The representative of Nigeria proposed to add at the beginning of subparagraph (b) the words "By looking into the possibility of encouraging the inclusion".

153. At the 8th meeting, on 18 November 1994, the observer for Morocco revised subparagraph (a) of the text proposed by her by replacing the words "By preparing" by the words "By launching".

154. At the 9th meeting, on 21 November 1994, the observer for South Africa submitted a compromise text, which read as follows:

"A possible optional protocol should provide awareness of the effects of the sale of children, child pornography and child prostitution as well as strengthen measures at the international and national levels, based on the principle contained in the Convention on the Rights of the Child and in accordance with international norms for the protection of children. The following should also be considered:

"(a) Launching a campaign of sensitizing people to the gravity and dangers that flow from the sale of children, child pornography and child prostitution. This campaign must be addressed to all those persons who are responsible for taking care of children; parents, educators and all concerned associations, such as tourist agencies and tourists, as well as the public. It must focus on the dissemination of information on the rights of the child, the condemnation and the fight against all forms of exploitation of children;

"(b) Encouraging the inclusion in educational efforts of information on the risks that children may run in regard to the sale of children, child pornography and child prostitution and on how they can defend themselves. This should take into account in particular the right of the family to its integrity, the fundamental right of every child to the integrity of his own body and the protection of his identity and his rights as laid down in the Convention;

"(c) Other programmes aimed at heightening public awareness, and improving the training of those who have functions involving support for and protection of children in the fields of education, health, social welfare and the justice system, in order to enable them to identify the phenomena of the sale of children, child pornography, and child prostitution;

"(d) The public should be informed of the penal policy put into effect, the number of prosecutions and sentences imposed in cases involving the sale of children, child pornography and child prostitution. The outcome of the proceedings instituted should be made public, while ensuring the anonymity of the victims, as well as the respect of their rights, in particular their right to privacy;

"(e) Means to ensure respect for social, spiritual and moral values;

"(f) As regards participation, it must be accepted that there should be greater involvement of the general public in disseminating the notion of protection of the child as an ethical principle common to all cultures and in the implementation of programmes established for such purposes."

155. At the 10th meeting, on 21 November 1994, the representative of Nigeria proposed to insert, after the words "Convention on the Rights of the Child", the words "particularly article 28, paragraphs 1-3".

156. The representative of Chile proposed to replace in subparagraph (a) of the text submitted by South Africa, the word "campaign" by the word "campaigns".

157. At the 11th meeting, on 22 November 1994, the representative of the Islamic Republic of Iran proposed a paragraph to be included in the text submitted by South Africa. The text read as follows:

"Encouraging the media to take such measures as collecting and disseminating information of concern to destructive impacts of the sexual exploitation of children and avoiding programmes and other products that incite the habits conducive to the sale of children, child pornography and child prostitution".

158. At the same meeting, the observer for South Africa submitted a revised text reading as follows:

"A possible optional protocol should provide awareness of the effects of the sale of children, child pornography and child prostitution as well as strengthen measures at international and national levels, based on the principle contained in the Convention on the Rights of the Child, particularly article 28, paragraphs 1-3, and in accordance with international norms for the protection of children. In this context, the following should be considered:

"(a) Launching campaigns, actively involving the media and other participants to sensitize and inform people to the gravity and dangers that flow from the sale of children, child pornography and child prostitution [and avoiding the dissemination of programmes that may be conducive to the encouragement of such exploitation]. These campaigns must be addressed to all those persons who are responsible for taking care of children; parents, educators and all others, such as associations, tourist agencies and tourists, as well as the public.

They must focus on the dissemination of information in the rights of the child, the condemnation and the fight against all forms of exploitation of children;

"(b) Encouraging the inclusion in educational efforts of information on the risks that children may run in regard to the sale of children, child pornography and child prostitution and on how they can defend themselves. This should take into account in particular the right of the family to its integrity, the fundamental right of every child to the integrity of his own body and the protection of his identity and his rights as laid down in the Convention;

"(c) Other programmes aimed at heightening public awareness, and improving the training of those who have functions involving support for and protection of children in the fields of education, health, social welfare and the justice system, in order to enable them to identify the phenomena of the sale of children, child pornography, and child prostitution;

"(d) The public should be informed of the penal policy and the number of prosecutions and sentences imposed in cases involving the sale of children, child pornography and child prostitution. The outcome of the proceedings instituted should be made public, while ensuring the anonymity of the victims, as well as the respect of their rights, in particular their right to privacy;

"(e) Means to ensure respect for social, spiritual and moral values;

"(f) As regards participation, it must be accepted that there should be greater involvement of the general public in disseminating the notion of protection of the child as an ethical principle common to all cultures and in the implementation of programmes established for such purposes."

159. The representative of Mexico proposed to replace, in subparagraph (d), the words "penal policy" by the words "criminal programmes".

160. The representative of the United States of America proposed to replace the words "penal policy" by the words "relevant measures adopted".

161. At the same meeting, the text entitled "Information, Education and Participation", as amended by the representative of the United States of America, was approved by the working group ad referendum.

162. At the 7th meeting, on 18 November 1994, the representative of the Russian Federation proposed a new paragraph reading as follows:

"States ensure implementation of all measures to prevent the sale of children, child pornography and child prostitution without discrimination of any kind, irrespective of the child's or his or her parent's or legal

guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status."

163. The representative of Chile proposed to insert this paragraph in the introduction of the Guidelines and to add at the beginning of the paragraph, the words "In accordance with provisions of article 2 of the Convention on the Rights of the Child".

164. The representative of Mexico proposed to insert, after the words "to prevent" the words "and to eradicate".

165. The representative of China proposed a new text which read as follows:

"A possible optional protocol should ensure that the optional protocol is implemented without discrimination of any kind."

166. At the 8th meeting, on 18 November 1994, the representative of the Russian Federation submitted a compromise text which read as follows:

"All provisions of a possible optional protocol should be implemented without discrimination of any kind as set forth in article 2 of the Convention on the Rights of the Child."

167. The observer of the Philippines proposed to insert after the word "All" the word "applicable".

168. The representative of Nigeria proposed to insert after the words "article 2" the words "paragraph 1".

169. The representative of the United States of America proposed to replace the words "all applicable provisions" by the words "The provisions".

170. This proposal was supported by the Chairman who proposed to adopt the text reading as follows:

"The provisions of a possible optional protocol should be implemented without discrimination of any kind as set forth in article 2 of the Convention on the Rights of the Child."

171. At the same meeting, the text entitled "Non-discrimination" was approved by the working group ad referendum.

172. At the 9th meeting, on 21 November 1994, the observer for the Philippines submitted a text, entitled "Non-reservation", which read as follows: "A possible optional protocol should contain a provision on non-reservation along these lines: No reservations may be made to this Protocol".

173. The representative of the Netherlands proposed a text which read as follows:

"In negotiations on a possible optional protocol, consideration should be given to the need of including a clause on reservations."

174. The representative of Cuba proposed to delete the last portion of the text proposed by the Philippines. The text would read as follows: "A possible optional protocol should contain a provision on non-reservation".

175. At the 15th meeting, on 24 November 1994, the observer for the Philippines submitted a compromise text which read as follows:

> "A possible optional protocol should consider the question of reservations."

176. The representative of the United States of America proposed to rename the title to read "Reservations".

177. At the same meeting, the text, as amended by the representative of the United States of America, was approved by the working group ad referendum.

178. At the same meeting, the representative of Australia proposed a new chapter entitled "Reporting" which read as follows:

> "A possible optional protocol should contain a provision relating to the inclusion by States of information regarding the implementation of the Protocol in the regular report to the Committee on the Rights of the Child."

179. The representative of Australia revised the text by deleting the words "by States", replacing the word "report" by the words "reports submitted by States", and adding, at the end of the paragraph, the following phrase: "pursuant to article 44 of the Convention on the Rights of the Child".

180. The observer for Ireland proposed to insert after the word "States" the word "Parties".

181. At the same meeting, the text entitled "Reporting" which read as follows:

> "A possible optional protocol should contain a provision relating to the inclusion of information regarding the implementation of the Protocol in the regular reports submitted by States who are party to the optional protocol to the Committee on the Rights of the Child",

was approved by the working group ad referendum.

IV. PROPOSALS RELATING TO THE PROCEDURAL GUIDELINES FOR A POSSIBLE DRAFT OPTIONAL PROTOCOL

182. At the 3rd meeting, on 16 November 1994, the representative of the United States of America introduced the following proposal:

> "Necessary elements of a possible draft optional protocol
>
> "1. Any protocol must use terms with clear and mutually understood meanings, so that the requirements of the protocol can be enacted into national legislation where required;

"2. Any protocol should enjoy the support of the Committee on the Rights of the Child;

"3. Any protocol should enjoy the greatest possible support of major non-governmental organizations involved in protecting children and promoting their rights;

"4. Any protocol should contribute to, and not detract from, the United Nations holistic approach to the problems of sexual exploitation of children;

"5. Any protocol should seek to minimize conflicts between national authorities regarding extra-territorial exercises of criminal jurisdiction;

"6. Any protocol should be consistent with other efforts at international cooperation in the field of protection of children."

183. At the 4th meeting, on 16 November 1994, the observer for Belgium made the following proposal:

"Each provision of a possible optional protocol has to meet following conditions:

"1. The provision must be clearly complementary to existing norms or instruments, or, the provision must be defined in clearly more precise terms and/or in a more binding manner than existing provisions.

"2. The provision should be adopted by consensus."

184. At the 14th meeting, on 23 November 1994, the representative of the United States of America introduced a revised proposal which read as follows:

"Procedural guidelines for a possible draft protocol:

"1. The provisions of any protocol should be clearly complementary to existing norms or instruments, or should define existing standards in a clearer or more binding fashion;

"2. The provisions of any protocol should be adopted by consensus, if possible;

"3. The contents of any protocol should be closely coordinated with the relevant work of the United Nations bodies and other international organizations involved in law enforcement and crime prevention;

"4. Any protocol must use terms with clear and mutually understood meanings, so that the requirements of the protocol can be enacted into national legislation where required;

"5. Any protocol should enjoy the greatest possible support of the Committee on the Rights of the Child;

"6. Any protocol should enjoy the greatest possible support of major non-governmental organizations involved in protecting children and promoting their rights;

"7. Any protocol should contribute to, and not detract from, the United Nations holistic approach to the problems of sexual exploitation of children;

"8. Any protocol should be consistent with other efforts at international cooperation in the field of protection of children;

"9. Any protocol should be based on a sound understanding of the factual circumstances related to sale of children, child prostitution and child pornography."

185. At the same meeting, the Chairman introduced the following proposal to be adopted by the working group:

"The working group considers that in the elaboration of a possible optional protocol on sale of children, child prostitution and child pornography, the guidelines contained in General Assembly resolution 1/120, entitled 'Setting international standard in the field of human rights' be taken into account, as well as the various views of the delegations that participated in the working group."

186. At the 15th meeting, on 24 November 1994, the representative of the United States of America, revising his previous proposal, introduced a new proposal as follows:

"Procedural guidelines for a possible optional protocol:

"1. A possible protocol should be developed in conformity with the guidelines contained in General Assembly resolution 41/120 entitled 'Setting international standards in the field of human rights';

"2. A possible protocol should make existing standards more effective;

"3. A possible protocol should be closely coordinated with the relevant work of United Nations bodies and other international organizations involved in law enforcement and crime prevention;

"[4. A possible protocol should attract broad international support and, to the greatest possible extent, take into account the views of relevant United Nations mechanisms and bodies and non-governmental organizations concerned with the sale of children, child prostitution and child pornography.]

"[5. A possible protocol should reflect the factual circumstances related to sale of children, child prostitution and child pornography.]"

187. While no objection was raised concerning paragraphs 1 and 3 of the above-mentioned proposal by the United States of America, two delegates expressed difficulty to accept paragraph 2 of the same proposal, resulting in putting the paragraph in square brackets.

188. The proposal as revised and amended was approved ad referendum by the working group.

V. PROPOSALS RELATING TO THE BASIC MEASURES, OTHER THAN A POSSIBLE OPTIONAL PROTOCOL, NEEDED FOR THE PREVENTION AND ERADICATION OF THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

189. At the 14th meeting, on 23 November, the working group began its consideration of the second aspect of its mandate relating to the elaboration of the basic measures needed for prevention and eradication of the sale of children, child prostitution and child pornography, as provided for in paragraph 17 of Commission on Human Rights resolution 1994/90.

190. At the same meeting, the representative of Belgium proposed a text, entitled "Basic measures needed for the prevention and eradication of practices referred to in Commission on Human Rights resolution 1994/90", which read as follows:

"1. We strongly emphasize as a matter of priority, the urgent and permanent need of the effective implementation and effective monitoring on an international and national level, of all basic measures for the prevention and eradication of the phenomena of the sale of children, child prostitution and child pornography expressed in particular in:

"1. The United Nations Convention on the Rights of the Child;

"2. The World Declaration on the Survival, Protection and Development of Children and the Plan of Action for the implementation of the World Declaration, adopted by the World Summit for Children in New York on 29 and 30 September 1990;

"3. The Recommendation made by the Special Rapporteur on the sale of children, child prostitution and child pornography throughout his reports;

"4. The Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography;

"5. The Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights;

"6. All the relevant recommendations of the Committee on the Rights of the Child, in particular related to the economic exploitation of children;

"7. The Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, and all other relevant international and regional conventions with respect to human rights [of children];

"8. The recommendations of Interpol with regard to offences against children and young persons, adopted by the Interpol General Assembly during its sixty-first session;

"9. All other relevant recommendations of international bodies, such as the United Nations Commission on Human Rights, the United Nations Commission on Crime Prevention and Criminal Justice, the United Nations Children's Fund, the International Labour Organization, the United Nations High Commissioner for Refugees, the United Nations Educational, Scientific and Cultural Organization and the World Tourism Organization;

"10. The recommendation of non-governmental organizations, in particular the Sub-Group on Sexual Exploitation of the NGO Group on the Convention on the Rights of the Child.

"2. We request that all the necessary means are immediately made available, at a national and international level, and through international cooperation, for the prevention and eradication of all violations of children's rights, including those violations related to the sale of children, child prostitution and child pornography.

"3. We request a permanent monitoring, at a national and international level, of the possible need for new or complementary measures to be taken in view of the prevention and eradication of violation of children's rights, including those violations related to the sale of children, child prostitution and child pornography. We emphasize the important role in this respect at the international level, of the Committee on the Rights of the Child, the Special Rapporteur on the sale of children, child prostitution and child pornography, the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities."

191. The following amendments to this proposal were suggested.

192. The representative of Australia proposed:

(a) To replace, at the beginning of paragraphs 3, "a" with "the";

(b) To replace, in paragraph 3, the words "possible need for new or complementary" by the words "effectiveness of these";

(c) To delete, also in paragraph 3, the words "to be taken";

(d) To insert, in the same paragraph, the words "need for the" before the word "prevention";

(e) To put the word "violation" into plural.

193. The representative of Austria proposed to include in the list of documents contained in paragraph 1, the ILO Minimum Age Convention (No. 138), and to replace, in paragraph 3, the words "permanent monitoring with some more general wording, like "evaluation".

194. The representative of the Islamic Republic of Iran, supported by the representatives of India and China, proposed to delete, in paragraph 2, the words "all violations of children's rights, including those violations related to".

195. The representative of Mexico proposed to include, in the list of documents contained in paragraph 2, the Declaration on the Right to Development. He also proposed to replace, in paragraph 3, the words "permanent monitoring" with "regular evaluation".

196. At the same meeting, the representative of Cuba proposed a text, entitled "Basic measures needed for the prevention and eradication of practices referred to in Commission on Human rights resolution 1994/90", which read as follows:

> "1. To convene a world conference before the year 2000 to evaluate the implementation of the programme of action for the prevention of the sale of children, child prostitution and child pornography.
>
> "2. To create a focal unit in the Centre for Human Rights to coordinate the implementation of the programme of action for the prevention of the sale of children, child prostitution and child pornography with other agencies of the United Nations system and to assist the Special Rapporteur in the fulfilment of his/her mandate as well as to assist countries, at their request, in the implementation of the above-mentioned programme. This coordination process should be under the authority of the High Commissioner for Human Rights.
>
> "3. To create a voluntary fund for the rehabilitation of every child victim of practices referred to in the Programme of Action and Vienna Declaration, in particular those from developing countries."

197. The following amendments to this proposal were suggested.

198. The representative of the United States of America proposed:

(a) To add, after the words "To create" in paragraph 2, the words "utilizing existing resources";

(b) To add, at the end of paragraph 3, the following phrase: "and to seek the advice of the Centre for Human Rights and the United Nations High Commissioner for Human Rights regarding the feasibility of such a fund and the costs of creating and administering it".

199. The representative of Australia proposed that paragraph 1 should not form a part of "Basic measures" recommended by the working group, but be included in the group's report as a proposal of Cuba.

200. The representatives of Austria and India proposed to replace in paragraphs 2 and 3, the words "To create" by the words "To consider creating".

201. The representative of Belgium proposed to replace paragraph 1 by a new text expressing support for the World Congress on Commercial Sexual Exploitation of Children to be held in Stockholm, Sweden, in 1996.

202. The working group continued its consideration of proposals relating to the elaboration of the basic measures needed for prevention and eradication of the sale of children, child prostitution and child pornography at its 15th meeting, on 24 November 1994.

203. The representative of Belgium submitted a revised text of his earlier proposal which reads as follows:

"1. The working group strongly emphasizes as a matter of priority, the urgent and permanent need of the effective implementation and effective monitoring on an international and national level, of all basic measures for the prevention and eradication of the phenomena of the sale of children, child prostitution and child pornography expressed in particular in:

"1. The United Nations Convention on the Rights of the Child;

"2. The [feasible] recommendations made by the Special Rapporteur on the sale of children, child prostitution and child pornography throughout his reports;

"3. The Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography;

"4. All the relevant recommendations of the Committee on the Rights of the Child, in particular related to the sale of children, child prostitution and child pornography;

"5. As well as other relevant provisions in international instruments, mechanisms and recommendations relating to the sale of children, child prostitution and child pornography.

"2. The working group requests that all the necessary means are immediately made available, at a national and international level, and through international cooperation, for the prevention and eradication of the sale of children, child prostitution and on child pornography.

"3. The working group requests the ongoing evaluation, at a national and international level, of the effectiveness of these measures, in view of the need for the prevention and eradication of the sale of children, child prostitution and child pornography. The working group emphasizes the important role in this respect at the international level, of the Committee on the Rights of the Child, the Special Rapporteur on the sale of children, child prostitution and child pornography, the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities."

204. At the same meeting, the representative of Cuba also submitted a revised text of his earlier proposal reading as follows:

"1. [The working group also recommends to consider to convene a world conference before the year 2000 to evaluate the implementation of the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography.]

"2. Consider the creation of a focal unit in the Centre for Human Rights to coordinate the implementation of the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography with other agencies of the United Nations system and to assist the Special Rapporteur in the fulfilment of his/her mandate as well as to assist countries, at their request, in the implementation of the above-mentioned programme. This coordination process should be under the authority of the High Commissioner for Human Rights.

"3. Consider the establishment of a voluntary fund for the rehabilitation of every child victim of practices referred to in the Vienna Declaration and Programme of Action, in particular those from developing countries and to seek the views of the Secretary-General regarding the feasibility of such a fund and costs of creating and administering it."

205. The representative of Nigeria proposed that the following new paragraph should be added to the revised text presented by Belgium:

"The working group reaffirms its strong conviction that an optional protocol on the sale of children, child prostitution and child pornography will to a large extent prevent and eradicate these phenomena or practices."

206. The representative of China proposed the following amendments to the revised text submitted by Belgium:

(a) In paragraph 1, to delete the words "and effective monitoring on";

(b) In paragraph 1 (2), delete square brackets around the word "feasible".

(c) In paragraph 1 (4), to replace the word "relevant" by "feasible".

207. The representative of India and the observer for the Philippines expressed their reservations with regard to the words, "The working group also recommends to" in paragraph 1 of the text proposed by Cuba.

208. With regard to the amendment proposed by Nigeria, the representative of the United States of America suggested that it could be included in the report of the working group as a proposal by Nigeria but not as a part of the group's recommendations.

209. The Chairman-Rapporteur, supported by the representatives of Belgium, Australia and the Netherlands, proposed to place the amendment of Nigeria in square brackets.

210. The representative of Nigeria proposed to put into square brackets the whole section of the proposals submitted on this item.

211. The representative of Mexico proposed to amend the heading of the proposals submitted by inserting the word "other" before "basic measures".

212. The representative of Nigeria amended the proposal of Mexico relating to the heading to read as follows:

"Basic measures other than the optional protocol needed for".

213. The Chairman-Rapporteur further amended this proposal by inserting the word "possible" before the words "optional protocol".

214. Some delegations proposed to retain the original heading.

215. The representative of Austria proposed to amend the heading to read: "Basic measures other than guidelines for a possible optional protocol ...".

216. The observer of Ireland proposed to insert the word "some" before "basic measures".

217. The Chairman-Rapporteur proposed for inclusion, the following text:

"The working group considers that it is not within its mandate to discuss whether an optional protocol on the sale of children, child prostitution and child pornography is possible".

218. The Chairman-Rapporteur also suggested that the words "and effective monitoring on", "feasible" and "relevant" in paragraph 1 of the revised text proposed by Belgium should be placed in brackets and that the heading of this chapter should read "Basic measures other than a possible optional protocol needed for ...".

219. The representative of Australia proposed to replace the word "possible" in the text submitted by the Chairman-Rapporteur, by the word "desirable", so as the paragraph would read as follows:

"The working group considers that within its mandate there is no provision for discussion as to whether or not an optional protocol on the sale of children, child prostitution and child pornography is desirable."

220. The working group then accepted the proposals of the Chairman, as amended by Australia.

221. The representative of Nigeria then agreed to withdraw his proposal (see para. 205 above) following the acceptance by the working group of the following wording: "Basic measures other than an optional protocol."

222. The Chairman-Rapporteur then ruled that the title of annex II would be "Basic measures, other than a possible optional protocol, needed for the prevention and eradication of the sale of children, child prostitution and child pornography".

223. In light of the proposals of the Chairman referred to in paragraph 220, the ruling of the Chairman was accepted.

VI. GENERAL RECOMMENDATION OF THE WORKING GROUP

224. At the 16th meeting, on 25 November 1994, upon the proposal of the observer for Ireland, the working group adopted the general recommendation reading as follows:

> "The working group recommends to the Commission on Human Rights that its draft guidelines for a possible optional protocol should receive the widest possible consideration and, in this context, invites representatives of the Committee on the Rights of the Child, the Special Rapporteur on the sale of children, child prostitution and child pornography and all relevant intergovernmental and non-governmental organizations to attend any future session of the working group and to offer views on the draft text".

Annex I

GUIDELINES FOR A POSSIBLE DRAFT OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

I. INTRODUCTION

In order to promote the best interest of the child, a possible optional protocol should pay particular attention to the need to take all necessary measures, at national and international levels, to prevent and eradicate the practices of sale of children, child prostitution and child pornography, as well as necessary measures for the rehabilitation of victims.

II. DEFINITIONS

1. For the purpose of this Protocol, a child means every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier.

2. A possible optional protocol should apply to the sale of children, child prostitution and child pornography.

3. A possible optional protocol should consider the definitions of sale of children, child prostitution and child pornography. The definitions given by the Special Rapporteur on this issue as well as those of the delegations to the first session of the working group should be taken into account in the elaboration of the proposed optional protocol.

III. IMPLEMENTATION OF PERTINENT INSTRUMENTS

A possible protocol should provide that States will:

- Emphasize the importance for States to prevent and eradicate the sale of children, child pornography and child prostitution through effective national legislation and domestic measures;

- Stress the continuing need for effective implementation on all levels of relevant international legal instruments related to the sale of children, child prostitution and child pornography, including the Convention on the Rights of the Child and all other pertinent conventions;

- Give due regard to implementation of the provisions of the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography and the other relevant decisions and recommendations of international bodies;

- As appropriate, encourage the activities of, and cooperation with, relevant international and non-governmental organizations, in line with their respective national legislation.

IV. PENALIZATION, COMPENSATION AND PROTECTION OF CHILDREN

A possible optional protocol should provide:

1. States should undertake to provide for appropriate penalties under criminal law in order to prevent and punish the sale of children, child prostitution and child pornography, according to the seriousness of such acts.

[2. States should address the problem to ensure that such offenders can be prosecuted either in the country where the offence was committed or in the country [where the perpetrators reside] or are nationals [or where the child victim is a national]. A corporation or other legal person can be prosecuted if consistent with the legal system of a State. This would require consideration by States of measures to prosecute [with due regard to the double criminality rule] their own nationals [or residents] for offences committed outside their territories or develop appropriate arrangements for extradition.]

3. States should give due regard to the necessity or appropriateness of possibly expanding the scope of seizure and confiscation of proceeds of, and all equipment and other property used in the sale of children, child prostitution and child pornography, belonging to any natural person or [legal entities] or organizations responsible for these offences.

4. States should consider the adoption of measures in order to protect the safety and integrity of those persons and/or institutions involved in the prevention and/or protection and rehabilitation of child victims of these practices, from any threat or act of aggression from persons, [legal entities] or organizations profiting from the sale of children, child pornography and child prostitution.

5. A possible optional protocol should encourage States to consider the possibility of adopting provisions within their national legislations that will allow child victims to be compensated and provide adequate means and assistance to such victims to exercise the right to compensation. It should be stressed that it is the offender who, in the first instance, should compensate the child victim.

6. States:

- Should ensure the protection, in all circumstances, of child victims of sale, prostitution and pornography so that they will not be subjected to any prosecution directly linked to the above-mentioned acts;

- Should ensure that the interests of children at all stages of the judicial process are safeguarded;

- Should prevent the identification of children involved in any such judicial process and respect their right to privacy, in particular by ensuring the confidentiality of files;

- Should establish for the benefit of these children the appropriate rule for hearings so as to ensure respect for their dignity, to minimize the traumatic effects and to enhance the weight to be given to their statements.

V. INTERNATIONAL COOPERATION AND COORDINATION

1. A possible optional protocol should address sale of children, child prostitution and child pornography. To that end, it should seek to strengthen international cooperation by all appropriate means, in particular within the framework of bilateral and multilateral agreements, for the purpose of prevention, detection, prosecution and punishment of such acts. Consideration should be given to including in the Protocol measures for enhanced cooperation in the following areas:

(a) The cooperation of police forces in tracing and apprehending offenders and in the investigation of such acts, and strengthening of the surveillance exercised by the immigration authorities and/or frontier police to verify that travel by children outside their own countries is not connected with the sale of children, child prostitution and child pornography;

(b) Judicial cooperation, including in particular cooperation in exchange of evidence;

(c) Exchange of information between States through relevant States organs and pertinent international organizations, while encouraging non-governmental organizations concerned with child welfare to provide relevant information to such organs and international organizations in order to identify and prosecute those engaging in sale of children, child prostitution and child pornography; and

(d) In the case of children transported across borders for the purposes of sale, child prostitution or child pornography, the adoption of measures to ensure the immediate protection of such children, as well expeditious procedures for repatriation where appropriate.

[2. A possible optional protocol should also:

(a) Provide that States undertake to set up bilateral and multilateral cooperation and take such measures as are deemed effective to eliminate the consumer market that nurtures the increase in the sale of children, child prostitution and child pornography on the basis of the principle of collective responsibility; and

(b) Encourage States to promote and strengthen international cooperation in the eradication of poverty, hunger and underdevelopment, particularly in developing countries, with a view to contributing to the elimination of sale of children, child prostitution and child pornography, and shall formulate and adopt a common strategy containing measures at national and international level aimed at ensuring greater social justice for all.]

VI. ASSISTANCE AND REHABILITATION

A possible optional protocol should provide:

1. States shall take all possible measures for providing assistance to and rehabilitation of victims of sale of children, child prostitution and child pornography.

2. International cooperation can play an important role in providing assistance and rehabilitation to child victims of sale, prostitution and pornography. All efforts to this end are encouraged.

3. [Consideration should also be given to including in the protocol undertakings by States to provide greater social and economic assistance to needy families and children in order to lift them out of the (rut) of poverty, economic deprivation and social disintegration which drive children into various forms of exploitation.]

VII. INFORMATION, EDUCATION AND PARTICIPATION

A possible optional protocol should provide awareness of the effects of the sale of children, child pornography and child prostitution as well as strengthen measures at international and national levels, based on the principle contained in the Convention on the Rights of the Child, particularly article 28, paragraphs 1-3, and in accordance with international norms for the protection of children. In this context, the following should be considered:

(a) Launching campaigns, actively involving the media and other participants to sensitize and inform people to the gravity and dangers that flow from the sale of children, child pornography and child prostitution [and avoiding the dissemination of programmes that may be conducive to the encouragement of such exploitation]. These campaigns must be addressed to all those persons who are responsible for taking care of children; parents, educators and all others, such as associations, tourist agencies and tourists, as well as the public. They must focus on the dissemination of information in the rights of the child, the condemnation and the fight against all forms of exploitation of children;

(b) Encouraging the inclusion in educational efforts of information on the risks that children may run in regard to the sale of children, child pornography and child prostitution and on how they can defend themselves. This should take into account in particular the right of the family to its integrity, the fundamental right of every child to the integrity of his own body and the protection of his identity and his rights as laid down in the Convention;

(c) Other programmes aimed at heightening public awareness, and improving the training of those who have functions involving support for and protection of children in the fields of education, health, social welfare and the justice system, in order to enable them to identify the phenomena of the sale of children, child pornography, and child prostitution;

(d) The public should be informed of relevant measures adopted and the number of prosecutions and sentences imposed in cases involving the sale of children, child pornography and child prostitution. The outcome of the proceedings instituted should be made public, while ensuring the anonymity of the victims, as well as the respect of their rights, in particular their right to privacy;

(e) Means to ensure respect for social, spiritual and moral values;

(f) As regards participation, it must be accepted that there should be greater involvement of the general public in disseminating the notion of protection of the child as an ethical principle common to all cultures and in the implementation of programmes established for such purposes.

* * *

Non-discrimination

The provisions of a possible optional protocol should be implemented without discrimination of any kind as set forth in article 2 of the Convention on the Rights of the Child.

* * *

Reservations

A possible optional protocol should consider the question of reservations.

* * *

Reporting

A possible optional protocol should contain a provision relating to the inclusion of information regarding the implementation of the protocol in the regular reports submitted by States who are party to the Optional Protocol to the Committee on the Rights of the Child, pursuant to article 44 of the Convention on the Rights of the Child.

Annex II

BASIC MEASURES OTHER THAN A POSSIBLE OPTIONAL PROTOCOL NEEDED FOR THE PREVENTION AND ERADICATION OF THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

1. The working group strongly emphasizes as a matter of priority, the urgent and permanent need of the effective implementation [and effective monitoring on] at international and national level, of all basic measures for the prevention and eradication of the phenomena of sale of children, child prostitution and child pornography expressed in particular in:

1. The United Nations Convention on the Rights of the Child;

2. The [feasible] recommendations made by the Special Rapporteur on the sale of children, child prostitution and child pornography throughout his reports;

3. The Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography;

4. All the [relevant] [feasible] recommendations of the Committee on the Rights of the Child, in particular related to the sale of children, child prostitution and child pornography;

5. As well as other relevant provisions in international instruments, mechanisms and recommendations relating to the sale of children, child prostitution and child pornography.

2. The working group requests that all the necessary means are immediately made available, at a national and international level, and through international cooperation, for the prevention and eradication of the sale of children, child prostitution and on child pornography.

3. The working group requests the ongoing evaluation, at a national and international level, of the effectiveness of these measures, in view of the need for the prevention and eradication of sale of children, child prostitution and child pornography. The working group emphasizes the important role in this respect at the international level, of the Committee on the Rights of the Child, the Special Rapporteur on the sale of children, child prostitution and child pornography, the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

[The working group also recommends to:

1. Consider convening a world conference before the year 2000 to evaluate the implementation of the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography.]

2. Consider the creation of a focal unit in the Centre for Human Rights to coordinate the implementation of the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography with other agencies of the United Nations system and to assist

the Special Rapporteur in the fulfilment of his/her mandate as well as to assist countries, at their request, in the implementation of the above-mentioned programme. This coordination process should be under the authority of the High Commissioner for Human Rights.

3. Consider the establishment of a voluntary fund for the rehabilitation of every child victim of practices referred to in the Vienna Declaration and Programme of Action, in particular those from developing countries, and to seek the views of the Secretary-General regarding the feasibility of such a fund and costs of creating and administering it.

The working group considers that within its mandate there is no provision for discussion as to whether or not an optional protocol on the sale of children, child prostitution and child pornography is desirable.

Annex III

PROCEDURAL GUIDELINES FOR A POSSIBLE DRAFT OPTIONAL PROTOCOL

1. A possible protocol should be developed in conformity with the guidelines contained in General Assembly resolution 41/120 entitled "Setting international standards in the field of human rights";

[2. A possible protocol should make existing standards more effective];

3. A possible protocol should be closely coordinated with the relevant work of United Nations bodies and other international organizations involved in law enforcement and crime prevention;

[4. A possible protocol should attract broad international support and, to the greatest possible extent, take into account the views of relevant United Nations mechanisms and bodies and non-governmental organizations concerned with the sale of children, child prostitution and child pornography.]

[5. A possible protocol should reflect the factual circumstances related to sale of children, child prostitution and child pornography.]